

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

BANXCORP,

Plaintiff,

v.

BANKRATE, INC.,

Defendant.

Civil Action No. 07-3398  
(SDW)(MCA)

*DOCUMENT ECF FILED*

**NOTICE OF CROSS-MOTION**

TO: R. Scott Thompson, Esq.  
Lowenstein Sandler PC  
65 Livingston Avenue  
Roseland, NJ 07068  
*Counsel for Defendant*

**PLEASE TAKE NOTICE** that on **Monday, May 9, 2011 at 10:00 a.m.**, or as soon thereafter as counsel may be heard, Plaintiff shall appear before the Honorable Susan D. Wigenton, U.S.D.J., at the Martin Luther King Jr. Federal Building and U.S. Courthouse, 50 Walnut Street, Newark, New Jersey, and shall move this Court for an Order (i) to bifurcate the *per se* antitrust claims pursuant to Fed. R. Civ. P. 42(b); (ii) to convert Defendant's Rule 12(b)(6) motion to a Rule 56 motion for summary judgment or in the alternative to grant Plaintiff's request for partial summary judgment on the *per se* antitrust claims under Count 1 of the Fourth Amended Complaint pursuant to Rule 56(b); and (iii) to consolidate this action with the related action *BanxCorp v. LendingTree LLC*, Civ. No. 10-2467-

SDW-MCA, pursuant to Fed. R. Civ. P. 42(a).

**PLEASE TAKE FURTHER NOTICE** that in support of their Cross-Motion, Plaintiff shall rely upon its Brief and annexed papers and exhibits submitted concurrently herewith, and any Reply papers submitted, and oral argument, if any.

Dated: April 18, 2011

Respectfully submitted,

s/Nelson E. Canter  
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